

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DANIEL A. LOPEZ, SR.,)	
)	
Plaintiff,)	Civil Action No. 10 – 1461
)	
v.)	District Judge Arthur J. Schwab
)	
WARDEN J. BARRY JOHNSON;)	
BERNARD McQUILLAN, M.D.; and)	
DUSTIN BOWERS, P.A.)	
)	
Defendants.		

MEMORANDUM ORDER

The above captioned case was initiated by the filing of a Motion to Proceed *In Forma Pauperis* (ECF No. 1) on October 25, 2010, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

On January 24, 2011, the magistrate judge filed a Report and Recommendation (ECF No. 28) recommending that the Motion to Dismiss filed by Defendants McQuillan and Bowers (ECF No. 21) be denied and that the Complaint be dismissed with prejudice against Defendant Barry Johnson in accordance with the directives of the Prison Litigation Reform Act under 28 U.S.C. § 1915(e)(2) and/or § 1915A. Plaintiff was served with a copy of the Report and Recommendation at his address of record. No objections have been filed.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 24th day of February, 2011;

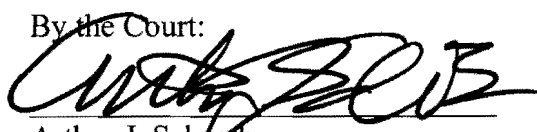
IT IS HEREBY ORDERED that the Motion to Dismiss filed by Defendants McQuillan and Bowers (ECF No. 21) is **DENIED**.

IT IS FURTHER ORDERED that the Complaint is **DISMISSED WITH PREJUDICE** against Defendant Barry Johnson in accordance with the directives of the Prison Litigation Reform Act under 28 U.S.C. § 1915(e)(2) and/or § 1915A.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF. No. 28) is **ADOPTED** as the Opinion of the Court.

AND IT IS FURTHER ORDERED that this case is remanded back to the magistrate judge for further pretrial proceedings.

By the Court:


Arthur J. Schwab
United States District Judge

cc: Daniel A. Lopez, FR – 6965
SCI Pine Grove
191 Fyock Road
Indiana, PA 15701